

Application No.: 09/982,307

Docket No.: 10003714-1

AGIL-27470

REMARKS

Reconsideration and Allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 21-37 are pending in this Application.

Claims 1-20 and 38-43 were previously cancelled.

Claims 21 and 34-37 are currently amended in this Amendment.

Regarding the § 112, Second Paragraph, Rejection

Claims 21-36 were rejected under 35 U.S.C. § 112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Applicant appreciates the Examiner's careful reading of the claims. Applicant has amended language in the independent claims to recite that the sensing cartridge body "has a liquid volume capacity of between 20 and 50 micro-liters." This is supported in the originally filed specification at [010]. The term "about" has been removed from the claims as suggested by the Examiner. As such Applicant respectfully requests that the § 112, second paragraph, rejection be withdrawn.

Regarding the 35 U.S.C. § 112, First Paragraph, Rejection

Claims 21-36 were rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the written description requirement.

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Applicant has amended the phrase "having a liquid volume capacity of at least twice the liquid volume capacity of said associated sensing cartridge" to read "having a liquid volume capacity of between 50 and 500 micro-liters."

Applicant has also amended the phrase "less than about 50 micro-liters" to "between 20 and 50 micro-liters." Applicant points out that these claim amendments are supported by the originally filed specification at [010]. As such, Applicant respectfully requests that the § 112, First Paragraph, Rejection be withdrawn.

Regarding the 35 U.S.C. § 102 Rejection

Claims 21-23, 26-34, and 36 were rejected under 35 U.S.C. § 102 (b) for being anticipated by *Anderson et al.* (U.S. Patent Number 5,922,591).

Although *Anderson* teaches examples of elements that have 5 micro-liters of fluid, *Anderson* does not teach or anticipate elements having between 20 and 50 micro-liters of liquid volume capacity. *Anderson* specifically targets miniaturization. Applicant further agrees with the Examiner that *Anderson* provides a significant discussion regarding miniaturized analytical elements (*Anderson* column 18, lines 10-44), but there is no discussion of liquid volumes in the cited portion of the *Anderson* specification. Furthermore, based upon the prescribed *Anderson* device dimensions, a volume of 20 to 50 micro-liters could not be accommodated. Furthermore, the volume capacity of the presently recited fluid reservoir, being between 50 and 500 micro-liters (see original specification at [010]) is also not taught, anticipated, and could not be accommodated by *Anderson* either.

Applicant would agree that *Anderson* teaches, in Figure 4, a fluid reservoir numbered 402, which is connected to three lines as shown in Panel A. In Panel B, *Anderson* shows the same device, but where the "waste reservoir" and the "storage reservoir" are both connected to

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each other by a tube. There is no anticipation or teaching in *Anderson* for a direct connection from the sensing cartridge to both the *Anderson* sample reservoir 402 and the *Anderson* waste reservoir 414. As such, Applicant submits that *Anderson* Figure 4 does not teach or anticipate a "fluid reservoir being reused as a waste reservoir and being directly connected to a second tube that receives waste fluid directly from said sensing cartridge body after said fluid is provided to said sensing cartridge body via said first tube."

Independent claim 21 has been amended to recite a companion body fluid analyzing cartridge that comprises, among other things, "a base element . . . detachably connected to a side of an associated sensing cartridge body that . . . has a liquid volume capacity of between 20 and 50 micro-liters." Claim 21 further recites that the companion body fluid analyzing cartridge also comprises a fluid reservoir "having a liquid volume capacity of between 50 and 500 micro-liters . . . [and contains] a fluid that is to be provided to said associated sensing cartridge via said first tube, said first reservoir being reused as a waste reservoir and being directly connected to a second tube that receives waste fluid directly from said sensing cartridge after said fluid is provided to said sensing cartridge via said first tube." As discussed above *Anderson* does not teach or anticipate the volume capacity or capacities recited in claim 21. Furthermore, there is a clear structural difference between the present claim language, which is supported at least by an exemplary embodiment shown in Figure 2 of the present Application, and the waste reservoir 414 and the sample reservoir 402 taught in Figure 4a of *Anderson* where no direct connection is taught or anticipated. As such, Applicant respectfully submits that claim 21 is not anticipated by *Anderson* and respectfully requests that the § 102 rejection be withdrawn.

Claims 22, 23 and 26-33 are each directly or indirectly dependent upon claim 21 and are therefore not anticipated for, at least, the same reasons as discussed above with respect to claim 21. Applicant respectfully submits that these claims are ready for allowance.

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Independent claims 34 and 36 each have been amended to recite the Examiner suggested liquid volume capacity limitations of the sensor cartridge and the companion body fluid analyzing cartridge body that are not taught or anticipated by *Anderson*. Also each of these independent claims has been further amended to recite one or more direct connections between the reusable fluid reservoir and the first and/or second tube. As such, applicant respectfully submits that there is a clear structural difference between the claimed invention and the cited art reference *Anderson*. As such, Applicant respectfully requests that the § 102 rejection be withdrawn and submits that these independent claims 34 through 37 are ready for allowance.

Regarding the § 103 Rejection

Claims 24, 25, 35 and 37 were rejected under 35 U.S.C. § 103 (a) for being rendered obvious by *Anderson et al.* (U.S. Patent Number 5,922,591) in view of *Leiner et al.* (U.S. Patent Number 6,037,178).

With respect to claims 24 and 25, applicant refers to the above discussion with respect to the § 102 rejection, and respectfully submits that *Leiner* does not provide sufficient teachings to overcome the deficiencies of the *Anderson* reference. Furthermore, independent claims 35 and 37 have been amended in a fashion similar to independent claims 34 and 36. As such, applicant respectfully submits that *Leiner* does not provide sufficient teachings to overcome the deficiencies of the *Anderson* reference with respect to the independent claims. Applicant respectfully submits that the § 103 rejection should be withdrawn and submits that all claims are now ready for allowance.

Should the Examiner have any further questions or comments facilitating allowance the Examiner is invited to contact Applicant's representative indicated below to further prosecution of this Application to allowance and issuance.

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In view of the above, it is believed that this application is in condition for allowance, and a Notice of Allowance is respectfully requested.

In view of the above amendments, Applicant believes the pending application is in condition for allowance.

Dated: 7/10/06 2006

Respectfully submitted,

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